

November 18, 2011

## UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

## FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISIDRO RIOS-TAPIA,

Defendant - Appellant.

No. 11-4157

(D.C. No. 2:08-CR-00141-TS-RTB-2)

(D. Utah)

---

ORDER

---

---

Before **KELLY, HOLMES**, and **MATHESON**, Circuit Judges.

---

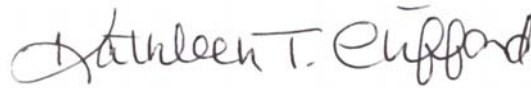
On April 12, 2010, the district court entered judgment in Defendant Isidro Rios-Tapia's criminal case. Defendant, proceeding *pro se*, appeals.

Under Fed. R. App. P. 4(b)(1)(A)(i), the 14-day deadline for filing a notice of appeal in this criminal case expired on April 26, 2010. Defendant filed his notice of appeal in the district court on August 8, 2011, which was approximately 16 months after expiration of the 14-day filing deadline. Although non-compliance with the time limit in Rule 4(b)(1)(A) is not considered jurisdictional, the United States has properly raised the timeliness issue by filing a motion requesting dismissal of this appeal. "[T]he time bar in Rule 4(b) must be enforced by this court when properly invoked by the government." *United States v.*

*Mitchell*, 518 F.3d 740, 744 (10th Cir. 2008) (quoting *United States v. Garduno*, 506 F.3d 1287, 1290-91 (10th Cir.2007)).

Accordingly, the United States' motion to dismiss is **GRANTED**. The appeal is **DISMISSED**.

Entered for the Court,  
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, appearing to read "Kathleen T. Clifford". The signature is fluid and cursive, with the first name "Kathleen" being more prominent than the last name "Clifford".

Kathleen T. Clifford  
Attorney - Deputy Clerk